

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

B & D MASONRY, INC.,

Plaintiff,

v.

CIVIL ACTION
NO. 12-3454

JAMES S. GREEN, SR., ESQ., AND
SEITZ, VAN OGTROP & GREEN, P.A.,

Defendants.

ORDER

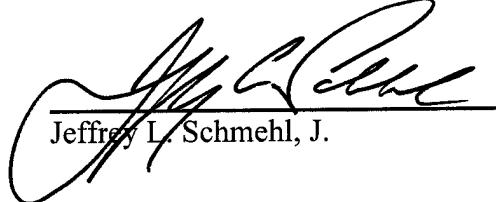
AND NOW, this 23rd day of August, 2013, upon consideration of

Defendants' Motion to Dismiss Second Amended Complaint (in Part) Pursuant to Fed.R.Civ.P. 12(b)(6), and Memorandum of Law in support, as well as Plaintiff's Response and Opposition to Defendants' Motion to Dismiss Second Amended Complaint (in Part), and Memorandum of Law in support, and Plaintiff's Second Amended Complaint and accompanying exhibits, and for the reasons set forth in the accompanying opinion, it is hereby **ORDERED** as follows:

1. the Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**;
2. the Motion to Dismiss is **GRANTED** to the extent it seeks to dismiss Plaintiff's request for attorneys' fees arising from the filing and prosecution of the within action;
3. Plaintiff's request for attorneys' fees incurred in the filing and prosecution of the within action is dismissed from the Second Amended Complaint;
4. the Motion to Dismiss is **DENIED** in all other respects; and

5. Defendants shall have until September 23, 2013 to file and serve an answer to the Second Amended Complaint.

BY THE COURT:



A handwritten signature in black ink, appearing to read "JL Schmehl". Below the signature is a horizontal line.

Jeffrey L. Schmehl, J.